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right of the matter" to immaterial points. But pleaders of inferior and slovenly mental disposition suffered themselves to be misled, deliberately it is to be feared, by their more acute brethren; and the popular mind came to consider the whole system a mere series of traps and pitfalls for the unwary,—an impediment to justice that must be abolished. In truth, even these evils might well have been remedied by allowing free liberty of amendment, and reducing to a moderate sum the costs payable on the grant of such privilege. Those concerned in reform movements, however, often lose sight of their real object in a feverish anxiety to "cut deep" and at once; and this explains why the system for bringing a cause to trial in convenient and exact form was discarded. There can be no question that the study of common law pleading affords refined and keen intellectual exercise, and those who believe that "order is Heaven's first law" will insist, with Sir Montague Crackenthorpe, that it is still of practical benefit.

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THE SELDEN SOCIETY. — If the plan should meet with sufficient encouragement and support, the Selden Society may undertake a complete edition of the Year Books. The Secretary and Treasurer for the United States, Mr. Richard W. Hale, of 10 Tremont Street, Boston, would be glad to receive any expressions of American opinion on the subject which might help in determining the course of the Society.

Proofs of parts of the Society's volumes on Early Equitable Records and Admiralty records (the second volume on the latter subject) are already on this side of the water; but it is difficult, as usual, to fix any certain date for final publication. Some of the early equity cases show a curious resemblance to the recent use of injunction proceedings in the demands which are made on the chancery power for the preservation of the peace. In a case of A. D. 1410, the petitioners allege "that the said William Ralph and Thurston [defendants] and others of their assent and covin have so seriously menaced the said suppliants from day to day of life and limb that they dare not pass their town nor work in the office that they have to do to the use of our said Lord the King nor about their own business for fear of being killed or murdered by the said evildoers." This is of course nothing new about early equity, but it comes at a time when the comparison naturally occurs to one. There is also a bill to enjoin a libel against a clergyman on the (seeming) ground of irreparable evil to the Holy Church. Among the Admiralty proofs may be found a plea of deviation to a policy of insurance in 1547. There is every indication of two interesting volumes.

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PHYSICAL SUFFERING RESULTING FROM MENTAL SHOCK. — A decision of high authority has recently been added to the controversy started by the case of *Victorian Railways Commissioners v. Coultas*, 13 App. Cas. 222, concerning what is generally and improperly known as "mental suffering." Last June the English Court of Appeal held that a plaintiff who became physically incapacitated for work through mental excitement and fright could recover under the terms of a policy insuring him "absolutely for all accidents, however caused, occurring . . . in the fair and ordinary discharge of his duty." *Pugh v. London, Brighton, and South Coast Railway Co.*, [1896] 2 Q. B. 248. Lord Esher, M. R., expressly distinguished the *Coultas* case (*supra*), and properly, in so far as that was an action

based on negligence; but it is evident, nevertheless, that the decision of the Court of Appeal necessarily repudiates the main proposition on which the reasoning of the Privy Council rested. The proposition was that there can be no legal causal connection between a mental shock and the physical injuries which may ensue. It is submitted that the position taken by the court in the later case is the more satisfactory.

Theoretically there seems to be no good reason why physical injuries should not be compensated for, though they be caused by what affects primarily only the mind. Some wrongful or negligent act, determined to be such in the light, not of subsequent events, but of ordinary circumstances, must be shown in the party against whom recovery is sought. Having found such breach of the defendant's legal duty to the plaintiff, it will not be disputed that fright may follow under any and all rules by which the existence of legal cause is determined. Where there is nothing further, the plaintiff is denied recovery merely because an emotion of the mind, though painful and distressing, "cannot in itself be regarded as measurable temporal damage." Pollock on Torts, 4th ed., 46, 47; *Lynch v. Knight*, 9 H. L. 577. But when the mental pain is followed by physical suffering, there exists the sort of injury for which there is legal remedy, and the question becomes whether the causal connection is broken. A scientific determination of precisely what takes place is not necessary to the legal consideration of this question. If the mental shock is followed by physical suffering, and it be shown in fact that no outside influences have intervened, the causal connection is certainly not broken. The real difficulty is in the proof of the facts necessary to make out the plaintiff's case. It is suggested that a keen realization of this is what underlies the decision in the *Coultas* case and in similar cases. *Ewing v. Pittsburg, Cinn., and St. Louis Ry. Co.*, 147 Pa. St. 40. The evident probability that in such actions juries either will be deceived as to the facts, or through incomplete comprehension of a difficult subject will come to wrong conclusions, certainly warns the courts to be discreet in sanctioning such claims; whether it justifies them in refusing to consider the claims at all is indeed a grave question.

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THE ENGLISH SOCIETY OF COMPARATIVE LEGISLATION.—In the November number of the REVIEW appeared an account of the French Society of Comparative Legislation, by M. Lévy-Ullmann. It is interesting to note that a similar society has at last been established in England. In December, 1894, the initial steps toward its formation were taken, and the recent appearance of its Journal shows that the work of the society is now well under way. Surely a work was never begun under brighter auspices. The president of the organization is Lord Herschell, and on the Council are such men as Sir William Anson, the Hon. T. F. Bayard, the Rt. Hon. James Bryce, Professor Dicey, Sir Edward Fry, Lord Halsbury, Professor Holland, Lord Justice Lindley, Professor Maitland, Sir Frederick Pollock, and Lord Russell of Killowen. With this backing, success is of course assured.

In the introduction to the Journal the purposes of the new Society are stated. "In the British Empire are some sixty legislatures; in the United States are nearly fifty. Each of them is occupied with much the same problems. . . . At present the results of foreign experiments are only imperfectly and casually brought to the notice of those who